

**(2003) 12 MAD CK 0151**

**In the Madras High Court**

**Case No :** Habeas Corpus Petition No. 1603 of 2003

Ameer

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

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**Date of Decision :** 23-12-2003

**Acts Referred:**

**Citation :** (2004) 2 LW(Cri) 681

**Hon'ble Judges :** P.D. Dinakaran, J;M. Thanikachalam, J

**Bench :** Division Bench

**Advocate :** Mr. A. Muralidharan, for the Appellant; Mr. V. M.R. Rajendran  
Additional Public Prosecutor, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

P.D. Dinakaran, J.—The Petitioner is the detenu, who had been clamped with the order of detention dated 2.6.2003 passed by the second Respondent herein, dubbing him as a Goonda, u/s 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest-Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982.

2. The order of detention came to be passed by the second Respondent based on four adverse cases in Crime No. 391/2002 for the offence punishable under Sections 341, 392, IPC, Crime No. 385/2003 for the offence punishable u/s 397, IPC, Crime No. 398/2003 for the offence punishable u/s 307, IPC, and Crime No. 420/2003 for the offence punishable u/s 307 altered to 302, IPC, and the ground case, all said to have taken place within the jurisdiction of JI, Saidapet Police Station, Law and Order.

3. The ground case is said to have taken place on 21.4.2003. On that day, the detenu, along with Devan and Abdul Rahman, was standing at the junction of Jones Road and Perumal Koil West Mada Veedhi. When the police went to apprehend them in connection with the crimes referred to in the adverse cases, noticing the police. Abdul Rahman took out his knife, Devan and the detenu

picked up soda water bottles in their hands and threatened the police personnel at the point of knife and bottles and rushed to cut Tr. Kalaiselvan. Sub Inspector of J1 Saidapet Police Station.

4. The detaining authority, after taking into consideration the ground case and the adverse cases, particularly. Crime No. 420/2003 wherein the offence punishable u/s 307, IPC, was subsequently altered to 302. IPC, was of the opinion that there was imminent possibility that the accused could be released on bail and therefore, passed the impugned order of detention.

5. The learned Counsel for the Petitioner, of course, placing reliance on the decision in *Dharmar v. State of Tamil Nadu* and Anr. reported in 1995 (1) L.W. (Cri.) 333, which was followed in *Kanniappan v. The District Magistrate, etc.* and Anr. reported in 2000 (1) L.W. (CrI.) 196, contends that when the crime referred to in the adverse cases is more grave in nature, there is no imminent possibility of the accused being released on bail, as opined by the detaining authority and therefore, the order of detention, based on such opinion, is vitiated for non application of mind.

6. The principle laid down in the said decision is not disputed by the learned Additional Public Prosecutor nor the applicability of the same to the instant case.

7. Under the facts and circumstances of the case, we are inclined to quash the impugned order of detention for non application of mind. The habeas corpus petition is allowed. The detenu Ameer is directed to be released forthwith, unless he is required in connection with any other case.